



June 21, 2001

Mr. James L. Hall
Assistant General Counsel
Office of the General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342

OR2001-2637

Dear Mr. Hall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 148599.

The Texas Department of Criminal Justice ("TDCJ") received a request for interview questions for Job Posting No. 029015WWY, Admin-Tech III-Unit Case Manager Position. You claim that the responsive test questions and answers are excepted from disclosure under section 552.122(b) of the Government Code. Further, you claim that the social security numbers of TDCJ employees are excepted from disclosure under section 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee's overall job performance or suitability. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 at 6 (1994).

Having reviewed the submitted questions, we agree that the five questions and answers in Section I of the submitted information constitute "test items" as contemplated by section 552.122(b). Therefore, you may withhold Section I of the submitted information under section 552.122(b). Sections II-V of the submitted information are not test items and must be released.

Section 552.117 of the Government Code provides that information is excepted from public disclosure if it is:

information that relates to the home address, home telephone number, or social security number, or that reveals whether the following person has family members:

...

(3) an employee of the Texas Department of Criminal Justice, regardless of whether the employee complies with Section 552.024.

Gov't Code § 552.117(3). Accordingly, you must withhold the social security numbers of the TDCJ employees under section 552.117(3) of the Government Code. *See* Open Records Decision No. 532 at 3 (1989). However, you must release the requestor's social security number to her. Gov't Code § 552.023 (person has special right of access to information protected from public disclosure by laws intended to protect person's privacy interest).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

